

IN THE DRAWINGS

Applicant submits herewith five (5) sheets of replacement formal drawings containing FIGS. 1G-4E to replace the drawings as originally filed. No new matter is contained in these replacement drawings.

Attachment: Replacement Sheets (FIGS. 1G-4E)

REMARKS

Applicants submit the following amendments and remarks in response to the Office Action mailed April 11, 2007. A Petition for a Three-Month Extension of Time extending the time for responding to the Office Action from July 11, 2007 to and including October 11, 2007 is submitted herewith.

Claims 1-20 were rejected in the Action. Claims 1-13 and 17 have been canceled. Claim 14 has been amended. Therefore, claims 14-16 and 18-20 are currently pending in the present application. No new matter has been added. Applicants set forth remarks relating to the Action below.

In the Action, the Examiner noted that an application in which the benefits of an earlier application are desired must contain a specific reference to the prior application in the first sentence of the specification pursuant to 37 C.F.R. 1.78(a)(2) and (a)(5). Applicants have amended paragraph [0001] of the originally filed disclosure to properly claim priority.

Further, the drawings were objected to under 37 C.F.R. 1.83(a). The Examiner contends that the knob being threaded to the shaft must be shown or the feature(s) canceled from the claim(s). Applicants submit replacement drawings herewith, adding Fig. 2d to show every feature of the present invention specified in the claims. Support for this new drawing may be found at least in paragraph [0031] of the originally filed disclosure, which states "A knob 4120, threaded on the shaft 4020, can be rotated about the longitudinal axis of the shaft 4020." Further, Applicants have amended paragraph [0014] to describe new Fig. 2d in the description of the drawings. Thus, this new drawing should be entered into the present application, as no new matter has been introduced to the application because of these amendments.

Further in the Action, the Examiner rejected claims 1-3, 7-9, 12, and 13 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,997,432 to Keller ("Keller"), and claims 1-6,

9, 10 under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. Pub. No. 2005/119665 to Keller ("the '665 reference"). Applicants have canceled claims 1-13 in the present application and therefore the rejections of these claims are moot.

Further in the Action, the Examiner rejected claims 14-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,228,023 to Zaslavsky et al. ("Zaslavsky"). The Examiner opined that Fig. 3 in Zaslavsky shows an instrument with a shaft 82 and a pin 84. The pin includes a holding end 90 and is spring biased via spring 98.

Applicants respectfully submit that claim 14, as amended herein, is unanticipated by Zaslavsky because that reference neither teaches nor suggests an apparatus for manipulating an orthopedic device including "a shaft having a longitudinal axis and a distal end having an extension, the extension including a confronting surface substantially perpendicular to the longitudinal axis of the shaft; an extendible and retractable holding pin located partially internal the shaft along the longitudinal axis, the pin including a distal end that is bent downwardly; and a spring coupled to the holding pin and located internal to at least a portion of the shaft, the spring configured to bias the distal end of the pin into the shaft; wherein the distal end of the holding pin is prevented from being entirely retracted within the shaft under the bias of the spring as the distal end of the holding pin abuts the confronting surface of the distal end of the shaft; . . ."

As clearly shown in Fig. 3 of Zaslavsky, holding end 90 is located entirely within shaft 82. As disclosed in Zaslavsky, a plunger 96 is formed at the proximal end 86 and a spring 98 may be provided to bias the shaft 84 away from the outer tube 82 such that the tissue grasping member 90 is in a closed position and is *completely housed within the outer tube 82*. (emphasis added). See col.8, 11.9-13. In contrast, paragraph [0029] of the originally filed disclosure states:

"Further, the inserter/impactor 4000 includes a holding pin 4080 that extends from the wedge 4042 along a longitudinal axis of the shaft 4020, the pin 4080 having a distal end 4100 that is bent downwardly. The holding pin 4080 is spring loaded (e.g., by a spring 4090) in a central channel of the shaft 4020, so that it is biased toward the shaft 4020 (preferably, the bent end 4100 of the pin 4080 prevents it from entering the central channel)." (emphasis added).

There is no indication in Zaslavsky that the tissue grabbing member 90 is configured to be prevented from entering a channel within shaft 82. In fact, the opposite is the case as the prongs 92, 94 of the tissue engaging member 90 are configured to capture target tissue therebetween and simultaneously retract it to a desired position. See col.8, 11.38-42. The tissue engaging member in Zaslavsky may be retracted back into the outer tube 82 while the distal end of the holding pin of the present invention is prevented from being retracted within the shaft of the apparatus. For the foregoing reasons, Applicants submit that amended claim 14 is not anticipated by Zaslavsky. Claims 15-16, and 18-20 are also unanticipated, *inter alia*, by virtue of their dependence from amended claim 1.

Lastly in the Action, claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application no. 10/784,646. Further, claims 1, 17-20 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5-10, and 12-18 of copending Application No. 10/784,628. Further still, claim 1 was also rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Pat. No. 7,115,132. Further still, claims 14, 18, and 19 were rejected on the ground

of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Pat. No. 7,235,081.

As stated above, claims 1-13 and 17 have been canceled rendering rejections of these claims moot. Regardless of whether applicant agrees or disagrees with the present obviousness-type double patenting rejections of pending claims 14-16 and 18-20, for the purpose of expediting the allowance of the claims in the present application, Applicants have prepared the enclosed terminal disclaimer with respect to the claims in the cited references. The double patenting rejections should therefore be removed.

In light of all of the above, Applicants respectfully request allowance of claims 14-16, and 18-20.

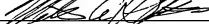
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 11, 2007

Respectfully submitted,

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